



*Utah State Tax Commission*

# Utah Fiduciary Income Tax Return And Instructions

## TC-41

210 North 1950 West  
Salt Lake City, Utah 84134  
(801) 297-2200  
1-800-662-4335  
<http://www.tax.ex.state.ut.us>

# 1997

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## General Instructions and Information

### Who Must File

A fiduciary of a resident estate or trust, or a fiduciary of a nonresident estate or trust with income derived from Utah sources, if required to file a U.S. Fiduciary Income Tax Return, must file a Utah Fiduciary Income Tax Return (form TC-41). A complete copy of the U.S. Fiduciary Income Tax Return, form 1041 (including copies of all applicable schedules such as Schedule K-1 and Schedules A, B, D, G, I, and J), must be attached to the Utah return.

### Fiduciary and Estate Defined

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any individual or entity. The term "estate" refers only to the estate of a deceased person and does not include a trust that is maintained for minors, for a person adjudicated incompetent, or for any person who is suffering from some other legal disability.

**Note:** Throughout these instructions, any reference to "you" means the fiduciary of the estate or trust.

### Domicile Defined

The term "domicile" means the place where an individual has a true, fixed permanent home and principal establishment, and to which place he has, whenever he is absent, the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself and his family, not for a mere special or temporary purpose, but with the present intention of making a permanent home (28 C.J.S. Domicile §1). After a domicile has been established, two things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile, once established, is not sufficient to create a new domicile. Before a person can be said to have changed his domicile, even though he manifests an intention to abandon the old domicile, a new domicile must be shown.

### Resident Estate and Resident Trust Defined

"Resident estate" or "resident trust" means:

- a. an estate of a decedent who, at his death, was domiciled in this state;
- b. a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or

- c. a trust administered in this state. A trust shall be considered to be administered in this state if:
  - (i) the place of business where the fiduciary transacts a major portion of its administration of the trust is in this state; or
  - (ii) the usual place of business of the fiduciary is in this state.

### Nonresident Estate and Nonresident Trust Defined

The terms "nonresident estate" or "nonresident trust" are defined as estates or trusts that are not resident estates or trusts.

### Exempt Trusts Defined

A trust that is exempt from federal income tax is exempt from Utah income tax unless there is unrelated business income in Utah.

### When and Where to File

A return for the calendar year must be filed with the Utah State Tax Commission, 210 N 1950 W, SLC, UT 84134-0250 on or before April 15, 1998. A return for a fiscal year must be filed on or before the 15th day of the fourth month after the close of that fiscal year.

### Extension of Time for Filing Return

Taxpayers are automatically accorded an extension of up to six months to file their returns. This is an extension of time for filing your return and not an extension of time to pay tax due. While the extension to file is automatic, if the statutorily prescribed prepayment is not received by the Tax Commission by the original due date of the return (generally April 15th), penalties will be assessed.

The prepayment amount must be equal to at least 90 percent of the tax due, or 100 percent of the amount of your 1996 Utah tax liability. A prepayment may be in the form of withholding (W2, TC-675R, 1099R, etc.), tax credit and/or payment made on form TC-548 on or before the return due date. Penalties and interest are assessed on the unpaid tax during the extension period.

### Amended Returns for 1997

An amended state return for 1997 should be filed promptly if:

1. you discover an error on your state or federal return after it has been filed; or

2. your federal return is audited or adjusted by the IRS and the IRS audit or adjustment affects your state return. You must amend your state return within 90 days of the IRS's final determination. If you are unsure whether or not your state taxes are affected by an audit or adjustment, please contact the Tax Commission.

If you need to amend a return for a tax year other than 1997, please use the tax form and instructions for the year you are amending.

To qualify for a refund or credit, an amended return must be filed within three years following the date the original return was filed. A return filed before the due date is considered filed on the due date. If an amended return is required to be filed based on changes made by the IRS, a claim for refund or credit must be made within two years after a Utah amended return was required to be filed.

To amend a previously filed 1997 state fiduciary income tax return:

1. check the amended box located at the top of the return; and
2. indicate the reason for amending, by writing one of the following numbers in the box provided on the return.

#### Reasons for Amending

1. you filed an amended return with the Internal Revenue Service (you must attach a copy of your amended federal return);
2. you made an error on your state return (attach an explanation of the error);
3. your tax calculation was changed by an Internal Revenue Service audit and/or adjustment (attach a copy of the IRS adjustment);
4. you had a net operating loss. Utah allows net operating losses to be carried back/forward on state fiduciary income tax returns in the same manner as on federal fiduciary income tax returns (attach a copy of your amended federal return); or
5. other (please attach explanation to return).

**Remember**, except for the amounts you amend, the amounts you place on the front and back of the return must match the amounts you placed on those lines on your original return.

Complete the return entering the figures as corrected.

If you received a refund on your original return, enter the total previous refunds on line 16 of the 1997 return. If you paid with the original return or made subsequent payments of the tax prior to filing the amended return, enter the total previous payments on line 22 of the 1997 return.

## Period to be Covered by Return

The first return filed by an administrator or executor of an estate must cover the period from the date of death of the decedent to the end of the first tax year selected by the fiduciary. The first return filed by a fiduciary of a trust must cover the period beginning with the creation of the trust to the end of the first tax year selected by the fiduciary. Returns must be filed for each subsequent year that the estate or trust is in existence. The taxable year cannot be longer than 12 months and must coincide with the tax year selected for purposes of filing the federal return. The accounting methods used for federal fiduciary income tax purposes must be the same for Utah fiduciary income tax purposes.

**Check the box provided in the top center of the return if this is a final return.**

## Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries

The estate or trust must include the full amount of each of these items. The amount of the state tax addback and the interest on U.S. government obligations that are allocated to beneficiaries, as explained below, are entered on line 10 and line 6 of the return.

The respective shares of an estate or trust and its beneficiaries (including an estate or trust that is a beneficiary of another estate or trust) in the state tax addback and interest on U.S. government obligations shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the state tax addback and U.S. government obligations shall be in proportion to its share of the estate or trust income for that year, which is, under state law or the governing instrument, required to be distributed currently plus any other amounts of such income distributed in that year.

## Amounts Reportable as Utah Income by the Beneficiaries

Resident beneficiaries will report to Utah the income from the estate or trust included in the beneficiary's federal adjusted gross income as though the beneficiary received the income directly. The residence of the estate or trust does not affect the source of income for computing the beneficiary's Utah individual income tax. Nonresident beneficiaries must file Utah income tax returns and report that portion of their distribution that was derived from Utah sources (see Instructions for Schedule A, following the Line-By-Line Instructions).

## **Payment of Tax**

The tax due is required to be paid in full with the return. Make check or money order payable to the Utah State Tax Commission.

## **Signature**

Be sure that the return is properly signed. An unsigned return is not a valid return and in case of any controversy, the benefits of filing a proper, timely return may be denied.

## **Penalties**

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely.

The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due.

The penalty for underpayment of an extension prepayment is 2 percent per month of the unpaid tax during the extension period.

For a list of additional penalties that may be imposed, please refer to Utah Code Ann. Section 59-1-401.

## **Interest**

Utah law requires that any tax paid after the due date of the return shall include interest on the balance due. Effective October 12, 1993, the calendar year interest rate applicable for all taxes and fees administered by the Tax Commission shall be two percentage points above the federal short-term rate in effect for the preceding fourth calendar quarter. This rate is published by the Internal Revenue Service in September of each year.

The interest rate for all taxes and fees administered by the Tax Commission for the 1998 calendar year is 8 percent.

**Interest is in addition to any penalties due.**

## **Rounding Off to Whole Dollar Amounts**

All entries must be reported in whole dollar amounts.

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## Line-By-Line Instructions

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### Heading

Print or type the information requested in the spaces provided (please use black ink). Please enter the full name of the estate or trust. The federal identification number (or social security number if the fiduciary is an individual) is required for both the estate or trust and the fiduciary.

### Line 1 – Type of Return

Check the appropriate box that describes the entity for which you are filing the return. The type of return must match the type of entity indicated in part A of the federal Form 1041.

### Line 2 – Status of Estate or Trust

Check the appropriate box that describes the status of the estate or trust. Refer to the General Instructions to determine if the estate or trust is a resident or nonresident entity.

### Line 3 – Resident/Nonresident Beneficiaries

If any beneficiary of the trust is not a resident of Utah, check the box. If all the beneficiaries are residents of Utah, leave the box blank.

#### Resident defined

A trust beneficiary is a Utah resident if:

1. domiciled for the entire year in Utah even though temporarily outside of Utah (temporarily may be an extended period, even years in certain situations);
2. domiciled in Utah for any period of time during the taxable year, but only for the duration of such period; or
3. even though domiciled outside Utah, maintains a permanent place of abode within the state and spends a total of 183 days or more of the taxable year within Utah.

#### Part-year resident defined

A trust beneficiary is a part-year Utah resident if domiciled in Utah for part of the taxable year and domiciled outside of Utah for part of the taxable year. For purposes of this line only, the box should be checked if a beneficiary is a part-year resident.

#### Nonresident defined

A trust beneficiary is a Utah nonresident if that beneficiary is not domiciled in Utah, or was in Utah for a

temporary or transitory purpose for less than 183 days in the aggregate during the taxable year.

### Line 4 – Federal Taxable Income

**If you checked the box marked resident on line 2**, enter the amount of federal taxable income from Form 1041, line 22. **If you checked the box marked non-resident on line 2**, enter the amount from Schedule A, line 10. Instructions for Schedule A follow these Line-By-Line instructions.

### Line 5 – State Income Taxes Deducted on Federal Return

If the fiduciary claimed any **income taxes** paid to Utah or any state, the District of Columbia, or a possession of the United States, as a deduction on the federal fiduciary return (line 11 of federal form 1041), the fiduciary **MUST** show the full amount claimed on this line unless it is a nonresident estate or trust. Amounts allocated to the beneficiaries should be included in line 10 of this form.

### Line 6 – Interest on U.S. Government Obligations Allocated to Beneficiaries

Include all interest on U.S. government obligations allocated to beneficiaries. See *Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries*, in the General Instructions. Attach a schedule of all allocations.

### Line 7 – Total

Add lines 4 through 6.

### Line 8 – Interest Income From U.S. Government Obligations Included in Federal Taxable Income

You may only deduct the amount of interest or dividends from qualifying U.S. government obligations included in your federal adjusted gross income less expenses as outlined in "B" below. See the General Instructions on page 2.

#### Qualifying U.S. Obligations

The U.S. Supreme Court in *Smith v. Davis*, 323 U.S. 111 (1944) has set forth the *Smith* test as a basis for determining whether instruments qualify as U.S. government obligations. To qualify as an obligation of the United States exempt from state taxation under the *Smith* test, the instruments must:

- (1) be written documents,

- (2) bear interest,
- (3) contain a binding promise by the United States to pay specific sums at specified dates, and
- (4) have congressional authorization which also pledges the full faith and credit of the United States in support of the promise to pay.

Constitutional doctrine of intergovernmental immunity exempts federal obligations from tax under state or local authority when obligations are issued to secure credit to carry on the necessary functions of government.

You may deduct on line 8 the amount of exempt income *that is used in arriving at your federal taxable income* after reducing the deduction by certain expenses.

#### A. Exempt Income

Income, including trust income distributed to a beneficiary, from the following sources is exempt from Utah state income tax under United States laws:

- 1. interest income on bonds or other obligations of the United States government or its possessions (such as H, HH, E, or EE bonds); and
- 2. interest or dividends on bonds or securities of any United States authority, commission or instrumentality exempt from state income taxes under federal law.

#### B. Expenses

The exempt income claimed as a deduction must be reduced by the following expenses if the expenses were claimed as deductions in arriving at your taxable income:

- 1. interest on money borrowed to purchase or carry bonds or securities; and
- 2. ordinary and necessary expenses paid or incurred in connection with producing exempt income.

**If paid out of a trust, include with your return a schedule showing the calculation of the income and the name, residency and federal identification number of the trust making the distribution. Include any fiduciary adjustment on line 6.**

Income from the following sources is **not** exempt from Utah state income tax:

- (1) interest or dividends from the Federal National Mortgage Association (FNMA) and Government National Mortgage Association (GNMA); and

- (2) interest on refunds from the Internal Revenue Service or any federal agency or department.

NOTE: The Tax Commission's Pub 33, Interest from U.S. Obligations, contains detailed listings of which specific U.S. securities and obligations are and are not taxable. To request the brochure, call (801) 297-6700 or 1-800-662-4335 outside the Salt Lake area.

### Line 9 – Federal Tax

Enter on line 9 one-half of your federal income tax from federal Form 1041, line 23. Nonresidents estates or trusts, enter on line 9 one-half (1/2) of the federal tax liability multiplied by the percentage on Schedule A, line 5.

### Line 10 – State Tax Addback Allocated to Beneficiaries

Include amount of state tax addback allocated to beneficiaries. See *Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries*, in the General Instructions. Attach a schedule of all state tax addbacks.

### Line 11 – Other Deductions

Please check the appropriate box(es) provided on line 11 to indicate the type(s) of deduction(s) taken.

#### A. Utah Educational Savings Plan (UESP)

The participant in the Utah Educational Savings Plan should receive a "Statement of Withholding For Utah Educational Savings Plan," form TC-675H, from the trustee of the Utah Educational Savings Plan Trust. Include on this line the amount on line 4 from form TC-675H. Attach a copy of form TC-675H to the return. If you have any questions about UESP, call 1-800-418-2551.

#### B. Railroad Retirement Pensions

If railroad retirement benefits paid by the Railroad Retirement Board which have been reported on form RRB 1099 as tier I or tier II income are paid to an estate in respect of a decedent, that income can be excluded from Utah taxable income. Only those distributions received by the estate which are included/reported on line 8 of federal form 1041 may be excluded from the Utah taxable income of the estate. Check the appropriate box and enter the amount on line 11. A copy of Form(s) 1099RRB must be attached.

#### C. Native American Income

An enrolled member of a Native American tribe in Utah who lives and works on the reservation on which he is an enrolled member is exempt from Utah income tax on the reservation income. If unpaid Native American compensation is paid to a

decedent's estate in respect of the decedent, and that income is included on line 8 of federal form 1041, check the appropriate box and enter the amount on line 11. A statement must be attached to the Utah return giving the name of the nation or tribe and the enrolled or census number of the decedent.

## Line 12 – Total Subtractions

Add lines 8 through 11.

## Line 13 – Utah Taxable Income

Subtract line 12 from line 7. This is your Utah taxable income. If less than zero, enter 0.

## Line 14 – Utah Tax

Compute the tax for the amount on line 13 using the rate schedule on the back of the return.

## Line 15 – Utah Use Tax

Utah residents who purchase items or services outside Utah for use or consumption in Utah, and do not pay sales tax on those items, or pay sales tax at a lower rate than the required sales tax rate for the area where they reside, must pay the tax on the purchase price at the rate applicable to the area they reside.

**For example**, if you live in a city with a sales and use tax rate of 6%, and you purchased an item outside Utah from a mail order catalog for a price of \$100, the sales tax due on that item is \$6. If the vendor, outside Utah, did not collect the \$6 sales tax to be distributed to Utah, you would be liable to pay that amount on this income tax return. **Or**, if sales tax was collected at 5% or \$5, which is less than the rate in this example, you will be liable for an additional \$1.

*If you owe sales and use tax, you will need to contact the Tax Commission or your local government to determine what the sales tax rate is for your location. You then should complete the following worksheet to determine whether you are liable for use tax. (No credit is given for taxes paid in foreign countries.)*

### Worksheet for Computing Utah Use Tax

Retain this worksheet for your records.

- |   |          |
|---|----------|
| 1. Total amount of purchases subject to use tax                                   | \$ _____ |
| 2. Use tax rate (decimal)   | x _____  |
| 3. Use tax (multiply line 1 by line 2)  | \$ _____ |
| 4. Credit for tax paid  | \$ _____ |
| 5. Amount of use tax due (line 3 less line 4) <i>Enter ZERO if less than ZERO</i> | \$ _____ |

## Line 16 – Amended Returns Only (Previous Refunds)

Use this line only if you are filing an amended return. When filing an amended return, enter the amount of all refunds, credits, or offsets of state income tax received for the tax year being amended. You should exclude refund interest from this amount.

## Line 17 – Total Tax

Add lines 14 through 16.

## Line 18 – Credit For Taxes Paid to Another State

This credit only applies to resident estates or trusts.

A Utah estate or trust must report all of its income regardless of where it was earned. If the estate or trust is also taxed by another state, the District of Columbia, or a possession of the United States, on income reported on the Utah return, it is entitled to a credit against the Utah income tax.

To calculate the credit for tax paid to other states, complete a separate Schedule B (on the back of the return) for each other state. You must also attach a signed copy of each state's fiduciary return for which a credit is claimed.

## Line 19 – Utah Tax Withheld

Enter on line 19 the amount of Utah tax withheld shown on forms W-2, 1099R, etc. You must attach these forms to the return.

## Line 20 – Credit for Utah Income Tax Prepaid

Prepayments to be entered on line 20 include the amount paid with form TC-548, Voluntary Prepayment of Fiduciary Tax.

## Line 21 – Other Credits

Enter on line 21 the total of "Other Credits" as determined on Schedule C, line 14 on the back of the return. Instructions for Schedule C follow these Line-By-Line instructions.

## Line 22 – Amended Returns Only (Previous Payments)

Use this line only if you are filing an amended return. When filing an amended return, enter the amount of tax paid with the original return and/or subsequent payments of the tax prior to filing this amended return.

## Line 23 – Total Credits

Add the credits on lines 18 through 22.



### **Line 24 – Tax Due**

If the Utah tax shown on line 17 is larger than the total credits on line 23, enter the balance of tax due on line 24.

### **Line 25 – Penalty and Interest**

This line is used only for extension, late filed or amended returns. If you owe penalty or interest, enter the amount you have computed. The penalty and interest charges are explained in the General Instructions of this instruction booklet.

### **Line 26 – Total Amount Paid with Return**

Add lines 24 and 25. Make check or money order payable to the Utah State Tax Commission and write the estate's or trust's federal identification number on it. Do not mail cash; the Tax Commission assumes no liability for loss of cash placed in mail.

### **Line 27 – Refund**

If the total credits on line 23 are larger than the Utah tax on line 17, enter the amount of refund on line 27. This is the amount to be refunded to you. Your refund will be issued as soon as reasonably possible. However, allow at least 90 days for your refund to be processed.

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## Instructions for Schedule A – Nonresident Estate or Trust

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The income of a nonresident estate or trust includable for Utah fiduciary income tax purposes is that portion of its federal taxable income derived from Utah sources as defined below.

### Lines 2 and 3 – Ordinary Income and Capital Gain or Loss Derived from Utah Sources

Include those items includable for federal fiduciary income tax purposes attributable to, or resulting from, ownership in Utah of any interest in real or tangible personal property (including real property or property rights from which “gross income from mining” as defined by the Internal Revenue Code of 1986 with revisions, Section 613(c) is derived); or the carrying on of a trade, business, profession or occupation in this state.

To determine ordinary income or capital gain or loss derived from Utah sources:

1. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is derived from property employed in a trade, business, profession or occupation carried on in Utah.
2. Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gain, loss and deduction connected with Utah sources. However, salaries, wages, commissions and compensation for personal services rendered outside the state of Utah shall not be deemed as derived from Utah sources.
3. A nonresident beneficiary's distributive share of ordinary income, gain, loss and deduction derived

from or connected with Utah sources shall be determined under Utah Code Ann. Section 59-10-118.

4. A nonresident estate or trust, other than a dealer holding property primarily for sale to customers in the ordinary course of a trade or business, shall not be deemed to carry on a trade, business, profession or occupation in the state of Utah solely by reason of the purchase or sale of property for its own account.
5. If a trade, business, profession or occupation is carried on partly within and partly without the state of Utah, items of income, gain, loss and deduction derived from or connected with Utah sources shall be determined in accordance with the provisions of Utah Code Ann. Section 59-10-118.

Place the amount of ordinary estate or trust income derived from Utah sources on Schedule A, line 2, and the amount of Utah capital gain or loss on Schedule A, line 3.

### Line 6 – Deductions and Expenses Directly Allocable to Utah Income

Amounts directly allocable to Utah income include: Depreciation and depletion on Utah properties; interest and taxes pertaining to Utah property; deduction for distributions of Utah income to beneficiaries; capital gain deductions or expenses on Utah capital gains or losses; and estate tax deductions pertaining to Utah income.

### Line 7 – Deductions and Expenses not Directly Allocable to any Specific Income

Amounts not directly allocable to Utah income include: charitable deductions; fiduciary fees; attorney and accountant fees; and the federal exemption.

## Instructions for Schedule C – Other Credits

### Line 1 – Energy Systems Installation Credit

To qualify for the energy credit, you must have installed an active or passive solar system, a wind system, a hydroenergy system, or a biomass system during the tax period. *Insulation, storm windows, storm doors and other energy saving devices not mentioned above do not qualify for this credit.*

The credit for **residential** units is 25 percent of the cost of the energy system, not to exceed \$2,000 per residential unit. The credit for **commercial** units is 10 percent of the cost of the system, not to exceed \$50,000 per commercial unit. You must attach a copy of form TC-40E, "Utah Energy Tax Credit for Energy Systems Installation" showing your computation, and the approval seal from the Utah Energy Office that the system has been installed and is a viable system for saving energy.

The energy systems installation credit is nonrefundable. The amount of the qualifying credit that may be claimed is limited to the amount of Utah income tax due. Any unused credit may be carried forward for up to four years to offset any future year's tax liability. Enter the amount on line 1.

You may obtain form TC-40E and a systems certification from the Office of Energy & Resource Planning, 1594 W North Temple, Suite 3610, SLC, UT 84114, telephone (801) 538-5428. For additional information see the instructions on form TC-40E.

### Line 2 – Clean Fuel Alternative Credit

This is a nonrefundable tax credit of 10 percent (*up to \$50*) of the total of the purchase cost and installation services cost of EPA certified pellet burning stoves, high mass wood stoves, solid fuel burning devices, and natural gas or propane free standing fireplaces or inserts. Enter the amount on line 2. For detailed instructions regarding the eligibility of a particular stove or fireplace, please see Form TC-40F, *Clean Fuel Alternative Tax Credit*, or contact the Division of Air Quality, Department of Environmental Quality, 1950 W North Temple, SLC, UT 84114-4820; telephone (801) 536-4000. You must attach Form TC-40F, showing the amount of credit you are claiming and the Division of Air Quality certification, to your return.

### Line 3 – Clean Fuel Vehicle Credit

This is a nonrefundable tax credit of:

20 percent (*up to \$500*) for the purchase of each new vehicle registered in Utah for the first time that is fueled by propane, natural gas, or electricity;

20 percent (*up to \$400*) equipment cost to convert vehicles to be fueled by propane, natural gas, or electricity; and

20 percent (*up to \$500*) equipment cost to convert special fuel mobile equipment to be fueled by propane, natural gas, or electricity.

Enter the amount on line 3. For detailed instructions regarding the eligibility of a particular vehicle for this tax credit, please see Form TC-40V, *Clean Fuel Vehicle Tax Credit*, or contact the Division of Air Quality, Department of Environmental Quality, 1950 W North Temple, SLC, UT 84114-4820; telephone (801) 536-4000. Attach Form TC-40V, showing the credit amount and the Division of Air Quality certification.

### Line 4 – Historic Preservation Tax Credit

This is a nonrefundable tax credit of 20 percent of qualified rehabilitation expenditures costing more than \$10,000 incurred in connection with any residential certified historic building. Unused credits may be carried forward five years as a credit against Utah tax due. Enter the amount on line 4. For detailed information regarding the eligibility of a rehabilitation project for this tax credit, please contact the State Historic Preservation Office, 300 Rio Grande, SLC, UT 84101; telephone (801) 533-3563. You must attach form TC-40H, *Historic Preservation Tax Credit*, showing the amount of credit you are claiming and the State Historic Preservation Office certification, to your return.

### Line 5 – Enterprise Zone Credit

*All enterprise zone credits will be subject to audit and will require verification upon request.*

Tax incentives described herein are available only to business firms meeting the following qualifications:

1. At least 51 percent of the employees at facilities of the firm located in the enterprise zone are individuals who, at the time of employment, reside in the enterprise zone; and,
2. The primary activity of the business must lie within standard industrial and telemarketing codes 2011 through 3999, 4221 through 4231, 5093, 7371 through 7375, 7379, 7389, 7629, 7692, 7694, and 7699 as set forth in the 1987 Revision of the Standard Industrial Classification Manual.

The following state tax credits are applicable to qualifying businesses in an enterprise zone.

1. A credit of \$750 for each new full-time position filled for not less than six months during a tax year.

2. An additional \$500 tax credit if the new position pays at least 125 percent of the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services. If this information is not available, the job must pay at least 125 percent of the total average monthly nonagricultural payroll wage in the respective county where the enterprise is located.
3. An additional credit of \$750 may be claimed if the new position is in a business that adds value to agricultural commodities through manufacturing or processing.
4. An additional \$200 credit may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program, if the employer pays at least 50 percent of the premium cost for two consecutive years.

*NOTE: Construction jobs and businesses engaged in retail trade or public utilities, are not eligible for the tax credits in paragraphs 1 - 4.*

5. A 50 percent credit for cash contributions, not to exceed \$100,000, made to a private nonprofit corporation that is exempt from federal income tax under Section 501(c)(3) of the IRS Code, whose primary purpose is community and economic development, and is accredited by the Utah Rural Development Council Board of Directors.
6. A 25 percent credit of the first \$200,000 spent on rehabilitating a building, vacant for two years, in the enterprise zone.
7. An annual investment tax credit of 10 percent of the first \$250,000 investment and 5 percent of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

A business claiming a credit under paragraphs 1- 4, may claim a credit for 30 full-time employee positions or less in each of its taxable years.

A business may claim an additional credit for a full-time employee position under paragraphs 1 - 4 above if:

- a. the business creates a new full-time employee position;
- b. the total number of full-time employee positions is greater than the number of full-time employee positions previously claimed by the business under paragraph 1 - 4; and
- c. the total number of credits claimed for its current taxable year, including the new full-time employee

positions being claimed as a credit, is less than or equal to 30.

*Tax credits not claimed by a business on its state income tax return within three years are forfeited. (Utah Code 9-2-401 through 9-2-414)*

If Enterprise Zone credits are being taken on your ownership in a partnership or S-corporation, you must allocate the above calculated credits based on your respective percentage of ownership.

For further information, contact the Department of Community and Economic Development, 324 S State Street, SLC, UT 84111, telephone (801) 538-8782.

## **Line 6 – Qualified Sheltered Workshop Cash Contribution Credit**

Cash contributions made within the tax year to a non-profit rehabilitation sheltered workshop facility for the handicapped operating in Utah and certified by the Department of Human Services as a qualifying facility, are eligible for a credit against Utah income taxes.

**Check with the workshop to make sure they are a qualified sheltered workshop.** The credit is equal to 50 percent of the total of cash contributions, not to exceed \$200. Contributions claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income (Utah Code 59-10-108). Enter amount and qualified workshop name on line 6.

## **Line 7 – Low Income Housing Credit**

This is a nonrefundable tax credit in an amount determined by the Utah Housing Finance Agency, for any housing sponsor that has received an allocation of the federal low-income housing tax credit and any applicant for an allocation of the federal low-income housing tax credit. Unused credits may be carried back three years or carried forward five years. Enter the amount on line 7. For detailed instructions regarding the eligibility of a building for this tax credit, please contact the Utah Housing Finance Agency, 177 E 100 S, SLC, UT, telephone (801) 521-6950. You must attach forms TC-40TCAC, *Utah Low-Income Housing Tax Credit Allocation Certification*, and TC-40LI, *Summary of Utah Low-Income Housing Tax Credit*, to your return. If you are carrying this credit forward or backward, you must also attach form TC-40LIC, *Utah Low-Income Housing Tax Credit Carryback and/or Carry-forward*, to your return.

## **Line 8 – Tax Credit For Employers Who Hire Persons With Disabilities**

This a nonrefundable tax credit for employers based on amounts paid to individuals with disabilities hired by the employer.

The credit applies only to amounts paid to individuals with disabilities. Individuals with disabilities are defined as individuals who:

- (1) have been receiving services from a day-training program for persons with disabilities, which is certified by the Department of Human Services as a qualifying program for at least six consecutive months prior to working for the employer claiming the tax credit; or
- (2) are eligible for services from the Division of Services for People with Disabilities at the time the individuals begin working for the employer claiming the tax credit.

An employer qualifies for this credit only if the individual with a disability:

- (1) works in this state for at least 6 months in a taxable year for that employer; and
- (2) is paid at least minimum wage by that employer.

The credit authorized by law shall be in an amount equal to 10 percent of the gross wages earned in the first six months of employment by the individual with a disability, and 20 percent of the gross wages earned in the remaining taxable year by the individual with a disability.

The credit taken by an employer is limited to \$3,000 per year per individual with a disability.

The credit is allowed only for the first two years the individual with a disability is employed by the employer.

Enter the amount on line 8. Credit amounts greater than the Utah tax liability in the tax year in which the credit is earned may be carried forward to each of the following two tax years. Carryforward credits shall be applied against the tax liability of any year before the application of any credits earned in the tax year.

Employers must attach to the return, form TC-40HD, *Tax Credit for Employers Who Hire Persons with Disabilities*, showing the Division of Services for People with Disabilities certification, and the amount they are claiming.

## Line 9 – Recycling Market Development Zones

For tax years beginning January 1, 1996 and ending December 31, 2000, the Utah Legislature has authorized a nonrefundable tax credit to individuals in a recycling market development zone as defined in Utah Code 9-2-1602. The credit consists of:

- (a) 5 percent of the purchase price paid during the taxable year for machinery and equipment used

directly in commercial composting, or manufacturing facilities or plant units that manufacture recycled items or reduce postconsumer waste material; and

- (b) 20 percent of net expenditures, up to a maximum credit of \$2,000, to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah.

The total credit allowed may not exceed 40 percent of the entity's Utah tax liability. Enter the amount on line 9.

Any amount of the tax credit attributed to the purchase of machinery and equipment that exceed the current year tax liability, may be carried FORWARD three years as a credit against Utah tax due.

For detailed instructions regarding the eligibility of particular equipment and expenses for this tax credit, please see form TC-40R, *Recycling Market Development Zone Tax Credit*, or contact the Department of Community and Economic Development, 324 So. State St., SLC, UT 84111, (801) 538-8872. You must attach form TC-40R, showing the Department of Community and Economic Development certification for machinery and equipment purchases and the amount you are claiming as a credit, to your return.

## Line 10 – Tutoring Tax Credit For Disabled Dependents

This is a nonrefundable tax credit of 25 percent, up to \$100, of the cost paid by the taxpayer for tutoring a disabled dependent.

A "disabled dependent" is defined as a person who:

- (1) is disabled under Utah Code Section 53A-15-301;
- (2) attends a public or private kindergarten, elementary, or secondary school; and
- (3) is eligible to receive disability program monies under Utah Code Section 53A-17a-111.

"Tutoring", for purposes of this credit, means educational services approved by an individual education plan team and provided to a disabled dependent that supplements classroom instruction the disabled dependent receives at a public or private kindergarten, elementary, or secondary school in the state.

Tutoring does not include:

- (1) purchases of instructional books and materials; and
- (2) payments for attendance at extracurricular activities, including sporting events, musical or dra-

matic events, speech activities, or driver education.

Enter the credit on line 10.

For more information regarding the tutoring tax credit for disabled dependents, please contact the Utah State Board of Education at (801) 538-7700.

### Line 11 – Total of Nonrefundable Credits

Add lines one through ten and enter the amount on line 11. This amount cannot be greater than line 14 less line 18 on the front of the return.

### Line 12 – Mineral Production Withholding Tax Credit

Enter on line 12 the total of the mineral production tax withheld as shown on forms TC-675R or federal schedule K-1(s) for 1997. Be sure to attach copies of form TC-675R or Schedule K-1 to the return to receive proper credit. (Include with other W-2 and 1099 forms.)

### Line 13 – Credit for Agricultural Off-Highway Gasoline and Undyed Diesel Tax

This credit is only for fuel purchased *in Utah* to operate stationary farm machinery used solely for commercial nonhighway agricultural use that was taxed at the time of purchase. Activities that would NOT qualify for this credit include, but are not limited to, the following: golf courses, horse racing, boat operations, highway seeding, vehicles registered for highway use, hobbies, farming for personal use, etc.

The fuel tax rates changed in 1997. Complete the worksheet in the next column to match the fuel tax rates with the affected tax period. The tax rate is:

**19** cents per gallon for **gasoline** purchased between January 1, 1997 and April 30, 1997;

**19.5** cents for **gasoline** purchased between May 1, 1997 and June 30 1997;

**24.5** cents for **gasoline** purchased between July 1, 1997 and December 31, 1997.

The tax credit for **undyed diesel** is **24.5** cents per gallon if purchased between July 1, 1997 and December 31, 1997. There was no tax credit for undyed diesel purchased before July 1, 1997. Keep all personal records, forms, and worksheets to support your deduction.

### Fuel Worksheet

Total credit for fuel. Multiply each qualified gallon by the tax rate that applies. Then add lines (a) through (d) and enter the total on line 13.

	Gallons	Tax Rate	Amount
(a) Motor Fuel 1/1/97–4/30/97	_____	X .19	_____
(b) Motor Fuel 5/1/97–6/30/97	_____	X .195	_____
(c) Motor Fuel 7/1/97–12/31/97	_____	X .245	_____
(d) Undyed Diesel 7/1/97–12/31/97	_____	X .245	_____
	Total \$ _____		

### Line 14 – Total of Other Credits

Enter the total of lines 11 through 13 here and on line 21 on the front of the return.



<p>Utah State Tax Commission</p> <p><b>Utah Fiduciary Income Tax Return</b></p> <p>For the year ending Dec. 31, 1997, or other taxable year beginning _____, 19____ and ending _____, 19____.</p>	<p><b>1997</b></p> <p><b>TC-41</b></p> <p>Rev. 12/97</p>
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☐ Check box if name and/or address has changed from the previous year's filing.

- ☐ Check if Final Return
- ☐ Check if Amended
- ☐ Reason for Amending

Please type or print in black ink.	Full name of the estate or trust		Federal identification number	
	Name of fiduciary		Federal identification or social security number of fiduciary	
	Fiduciary's present address			
	City, town or post office	County (province)	State and ZIP code (foreign country)	

- 1. Type of return (check one)
- ☐ Estate      ☐ Simple trust
- ☐ Grantor trust      ☐ Complex trust
- 2. Status of estate or trust (check one)
- ☐ Resident      ☐ Nonresident
- 3. Check if this estate or trust has any nonresident beneficiaries?
- ☐ Nonresident Beneficiaries

ATTACH FORM W-2, TC-675R, OR K-1 HERE

4. Federal taxable income from federal form 1041 line 22, or Schedule A, line 10 on reverse if nonresident .....	●	4		00
5. State income taxes deducted on federal return (Utah portion only if nonresident) .....	●	5		00
6. Interest on U.S. government obligations allocated to beneficiaries (see instructions) .....	●	6		00
7. Total (add lines 4, 5, and 6) .....		7		00
8. Interest income from U.S. government obligations used in arriving at federal taxable income .....	●	8		00
9. 1/2 federal tax liability on federal return (see instructions) .....	●	9		00
10. State tax addback allocated to beneficiaries - (see instructions) .....	●	10		00
11. Other deductions: (see instructions) .....		11		00
● <input type="checkbox"/> UESP      ● <input type="checkbox"/> Railroad Retirement      ● <input type="checkbox"/> Native American				
12. Total subtractions (add lines 8 through 11) .....		12		00
13. Utah taxable income (line 7 less line 12) .....	●	13		00
14. Utah tax (compute from Rate Schedule on back using amount on line 13) .....	●	14		00
15. Utah use tax (untaxed purchases subject to use tax multiplied by the local use tax rate) .....	●	15		00
16. AMENDED RETURNS ONLY - previous refund received on original return .....	●	16		00
17. Total tax (add lines 14 through 16) .....		17		00
18. Credit for taxes paid to another state (from Schedule B, line 7 on back of return) .....	●	18		00
19. Utah tax withheld (see instructions) .....	●	19		00
20. Credit for Utah income tax prepaid (from form TC-548) .....	●	20		00
21. Other credits (from Schedule C, line 14 on back of return) .....	●	21		00
22. AMENDED RETURNS ONLY - credit for tax paid on original return .....	●	22		00
23. Total credits (add lines 18 through 22) .....		23		00
24. TAX DUE - if line 17 is larger than line 23, subtract line 23 from line 17. This is the amount you owe. ....	☹	24		00
25. Penalty and interest (for extension, late filed, or amended returns) .....		25		00
26. Total amount paid with return (add lines 24 and 25) .....	●	26		00
27. REFUND - if line 23 is larger than line 17, subtract line 17 from line 23 and enter balance. This is the amount overpaid. ....	☺	27		00

Official Use Only

Mail your return and payment to: Utah State Tax Commission, 210 N 1950 W, SLC, UT 84134-0250

Attach a complete copy of the federal fiduciary return, Form 1041 and Schedules

Under penalties of perjury, I declare that to the best of my knowledge and belief, this return and accompanying schedules are true, correct, and complete.

Signature of fiduciary or officer representing estate or trust		Date	EIN of fiduciary if a financial institution	
Paid preparer's signature	Date signed	Check if self-employed <input type="checkbox"/>	Preparer's social security no.	
Firm's name (or yours if self-employed)	Telephone number		E.I. number	
Paid preparer's complete address	City	State	ZIP code	

Paid  
Preparer's  
Section

## Schedules A, B, and C Utah Tax Rate Schedules

### Schedule A – Computation of the federal taxable income of the estate or trust derived from Utah sources.

To be completed by all nonresident estates or trusts.

1. Total income from federal form 1041, line 9 .....	1	\$	00
2. Ordinary income derived from Utah sources (attach schedule - see instructions)	2		00
3. Utah capital gain or (loss) (attach schedule - see instructions)	3		00
4. Total income derived from Utah sources (add lines 2 and 3) .....	4	\$	00
5. Percent of total federal income derived from Utah sources (line 4 divided by line 1) .....	5		%
6. Deductions from federal form 1041 directly allocable to Utah income .....	6		00
7. Deductions from federal form 1041 not allocable to any specific income .....	7		00
8. Allocable amount of line 7 (line 7 multiplied by line 5) .....	8		00
9. Total deductions allocable to Utah income (add lines 6 and 8) .....	9		00
10. Federal taxable income derived from Utah sources (line 4 less line 9). Enter here and on line 4 on front of form	10	\$	00

### Schedule B – Credit for fiduciary income tax paid to another state. Applies only to resident estates or trusts paying a fiduciary tax to another state. You must attach a signed copy of all other state fiduciary returns for which credit is claimed.

1. Total income from federal form 1041, line 9 .....	1	\$	00
2. Total income taxed in state(s) of: .....	2		00
3. Percent other state(s) income bears to total income (line 2 divided by line 1; do not enter more than 100%) .....	3		%
4. Utah fiduciary tax as computed on line 14 on front of form .....	4		00
5. Credit limitation (line 4 multiplied by percent on line 3) .....	5		00
6. Fiduciary tax paid to state(s) listed on line 2 .....	6		00
7. Credit for fiduciary taxes paid to other state(s) (line 5 or 6, whichever is less). Enter here and on line 18 on front of form .....	7	\$	00

### Schedule C – Other credits

1. Energy systems installation credit (attach TC-40E) .....	1	\$	00
2. Clean fuel alternative credit (attach form TC-40F) .....	2		00
3. Clean fuel vehicle credit (attach form TC-40V) .....	3		00
4. Historic preservation tax credit (attach form TC-40H) .....	4		00
5. Enterprise zone credit (see instructions) .....	5		00
6. Credit for cash contribution to qualified sheltered workshop. Name of workshop .....			
Total cash contribution \$ x .50 (maximum credit is \$200) .....	6		00
7. Low income housing tax credit (see instructions) .....	7		00
8. Credit for employers who hire disabled (attach form TC-40HD) .....	8		00
9. Recycling market development zones (attach form TC-40R) .....	9		00
10. Tutoring tax credit for disabled dependents .....	10		00
11. Nonrefundable credits (add lines 1 through 10) This amount cannot be greater than line 14 less line 18 on front of return. ....	11		00
12. Mineral production withholding tax credit (attach TC-675R or federal Schedule K-1) .....	12		00
13. Agricultural off-highway gas/undyed diesel tax credit. Gallons (See instructions) .....	13		00
14. Total of other credits (add lines 11 through 13 and enter total here and on line 21 on front of return) .....	14		00

## 1997 Utah Fiduciary Tax Rate Schedule

**FIDUCIARY TAX RATE SCHEDULE** – Calculate the tax based upon income amount shown on line 13 on front of return. Enter amount of tax on line 14 on front of return.

#### If the state taxable income is:

#### The tax is:

Less than or equal to \$750 .....	2.3% of the state taxable income
Over \$750 but not over \$1,500 .....	\$17, plus 3.3% of excess over \$750
Over \$1,500 but not over \$2,250 .....	\$42, plus 4.2% of excess over \$1,500
Over \$2,250 but not over \$3,000 .....	\$74, plus 5.2% of excess over \$2,250
Over \$3,000 but not over \$3,750 .....	\$113, plus 6.0% of excess over \$3,000
Over \$3,750 .....	\$158, plus 7.0% of excess over \$3,750